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IN THE

Supreme Court of the United States

OCTOBER TERM, 1967.

No. 1182

DONALD UELMEN AND PURE MILK PRODUCTS COOPERATIVE,

Petitioners,

vs.

ORVILLE L. FREEMAN, SECRETARY OF AGRICULTURE OF THE UNITED STATES.

REPLY TO MEMORANDUM OF THE UNITED STATES.

GEORGE M. ST. PETER,
104 South Main Street,
Fond du Lac, Wisconsin 54935,
Attorney for Petitioners, Donald Uelman and Pure Milk Products Cooperative.

April 5, 1968.

THE GUNTHORP-WARREN PRINTING COMPANY, CHICAGO

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1. This law suit is not moot as claimed by the Solicitor General.

His memorandum cites as the reason for "mootness", 31 Federal Register 14948.

Had the Solicitor General not inadvertently omitted the date of page 14948, his claim would have been clearly seen as groundless.

2. 31 Federal Register 14948 is dated November 26, 1966; a date before the District Court had completed hearing from counsel, and six months before the decision on May 19, 1967.

No claim was made that the law suit was moot in the District Court.

No reference was made in any briefs or in the District Court's decision to the law suit being moot.

3. And so for the appeal to the Circuit Court of Appeals for the 7th Circuit, a new set of attorneys for the government; with no reference to 31 Fed. Reg. 14948 (Nov. 26, 1966) in briefs or argument or in the decisions in the Circuit Court of Appeals, majority or dissenting.

4. Counsel for the Department of Agriculture in the District Court, and for the Attorney General's office in the Circuit Court were experienced and knowledgeable.

They did not claim the law suit to be moot; because it was not and is not moot.

5. 31 Fed. Reg. 14948 was based on a hearing in St. Louis, Missouri, November 15, 1966, to consider emergency pricing in 24 Federal Order Markets (generally the Mississippi Valley). It was one of four regional hearings for the nation. The notice was published November 9, 1966, 31 Fed. Reg. 14406, *et seq.* for hearings to be held November 14-18, 1966. The St. Louis hearing was *noticed* for November 15, 1966.

A one day hearing for 24 cities did not consider the supply demand adjustor for Milwaukee. The notice did not cover the Milwaukee supply demand provision, the evidence didn't include this and the decision ignored any attempt to amend the Milwaukee order as to the supply-demand adjustor.

6. The Solicitor General is in error in claiming now for the first time that there was notice, hearing and a favorable vote of more than 75% of the farmers serving the market.

There was no notice and no hearing on the issue.

With reluctance this reply is submitted to keep the record straight.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

GEORGE M. ST. PETER,
Attorney for Petitioners.

April 5, 1968.